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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
Against:

Case No. *2013 - 589*

12 **TERI NICOLE BASIL**

STATEMENT OF ISSUES

13 **Registered Nurse License Applicant**

14
15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about May 21, 2012, the Board of Registered Nursing, Department of
23 Consumer Affairs received an application for a Registered Nurse License from Teri Nicole Basil
24 (Respondent). On or about May 17, 2012, Respondent certified under penalty of perjury to the
25 truthfulness of all statements, answers, and representations in the application. The Board denied
26 the application on September 17, 2012.

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JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

1 (3) (A) Done any act that if done by a licentiate of the business or profession
2 in question, would be grounds for suspension or revocation of license.

3 (B) The board may deny a license pursuant to this subdivision only if the
4 crime or act is substantially related to the qualifications, functions, or duties of the
5 business or profession for which application is made.

6 7. Section 482 of the Code states:

7 Each board under the provisions of this code shall develop criteria to evaluate
8 the rehabilitation of a person when:

9 (a) Considering the denial of a license by the board under Section 480; or

10 (b) Considering suspension or revocation of a license under Section 490.

11 Each board shall take into account all competent evidence of rehabilitation
12 furnished by the applicant or licensee.

13 8. Section 2761 of the Code states:

14 The board may take disciplinary action against a certified or licensed nurse or
15 deny an application for a certificate or license for any of the following:

16 (a) Unprofessional conduct, which includes, but is not limited to, the
17 following:

18 (f) Conviction of a felony or of any offense substantially related to the
19 qualifications, functions, and duties of a registered nurse, in which event the record of
20 the conviction shall be conclusive evidence thereof. . . .

21 9. Section 2762 of the Code states:

22 In addition to other acts constituting unprofessional conduct within the meaning
23 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
24 licensed under this chapter to do any of the following:

25 (b) Use any controlled substance as defined in Division 10 (commencing with
26 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
27 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
28 dangerous or injurious to himself or herself, any other person, or the public or to the
extent that such use impairs his or her ability to conduct with safety to the public the
practice authorized by his or her license.

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1 (c) Be convicted of a criminal offense involving the prescription, consumption,
2 or self-administration of any of the substances described in subdivisions (a) and (b) of
3 this section, or the possession of, or falsification of a record pertaining to, the
substances described in subdivision (a) of this section, in which event the record of
the conviction is conclusive evidence thereof. . . .

4 10. Section 2765 states:

5 A plea or verdict of guilty or a conviction following a plea of nolo
6 contendere made to a charge substantially related to the qualifications, functions and
7 duties of a registered nurse is deemed to be a conviction within the meaning of this
8 article. The board may order the license or certificate suspended or revoked, or may
9 decline to issue a license or certificate, when the time for appeal has elapsed, or the
10 judgment of conviction has been affirmed on appeal or when an order granting
11 probation is made suspending the imposition of sentence, irrespective of a subsequent
12 order under the provisions of Section 1203.4 of the Penal Code allowing such person
13 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
14 the verdict of guilty, or dismissing the accusation, information or indictment.

15 REGULATORY PROVISIONS

16 11. California Code of Regulations, title 16, section 1444 states:

17 A conviction or act shall be considered to be substantially related to the
18 qualifications, functions or duties of a registered nurse if to a substantial degree it
19 evidences the present or potential unfitness of a registered nurse to practice in a
20 manner consistent with the public health, safety, or welfare. Such convictions or acts
21 shall include but not be limited to the following:

22 (a) Assaultive or abusive conduct including, but not limited to, those violations
23 listed in subdivision (d) of Penal Code Section 11160.

24 (b) Failure to comply with any mandatory reporting requirements.

25 (c) Theft, dishonesty, fraud, or deceit.

26 (d) Any conviction or act subject to an order of registration pursuant to Section
27 290 of the Penal Code.

28 12. California Code of Regulations, title 16, section 1445 states:

(a) When considering the denial of a license under Section 480 of the code,
the board, in evaluating the rehabilitation of the applicant and his/her present
eligibility for a license will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as
grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s)
under consideration as grounds for denial which also could be considered as grounds
for denial under Section 480 of the code.

(3) The time that has elapsed since commission of the act(s) or crime(s)
referred to in subdivision (1) or (2).

1 (4) The extent to which the applicant has complied with any terms of parole,
probation, restitution, or any other sanctions lawfully imposed against the applicant.

2 (5) Evidence, if any, of rehabilitation submitted by the applicant. ...

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4 **FIRST CAUSE FOR DENIAL OF APPLICATION**

5 **(1995 Criminal Conviction for DUI With Accident on October 11, 1995)**

6 13. Respondent's application is subject to denial under sections 480, subdivision (a)(1)
7 and subdivision (a)(3)(A) of the Code in that she was convicted of a crime that is substantially
8 related to the qualifications, duties, and functions of a registered nurse, which would also be
9 grounds for discipline for a licensed registered nurse under Code section 2761, subdivision (f).
10 The circumstances are as follows:

11 14. In or about 1995, in a criminal proceeding entitled *The City of Henderson*
12 *Municipal Court vs. Teri Nicole Basil*, in the Henderson, Nevada Municipal Court, Respondent
13 was convicted of DUI, a misdemeanor.

14 15. The facts that led to the conviction are that on or about October 11, 1995, at
15 approximately 1:30 a.m., Henderson Police Department Officers responded to a call of a vehicle
16 that was swerving wide on the street and had just hit a parked vehicle. Upon arrival, officers
17 made contact with the driver of the vehicle (Respondent). Officers smelled the odor of an
18 alcoholic beverage emitting from her breath and observed that she had injured her mouth and
19 face. Respondent was transported to the Desert Springs Hospital for treatment of her injuries and
20 to obtain a blood sample. Respondent was arrested and booked at the Henderson City Jail for
21 driving under the influence of alcohol and for driving with no valid driver's license. The
22 respondent's BAC was 0.12%.

23 **SECOND CAUSE FOR DENIAL OF APPLICATION**

24 **(March 9, 2009 Criminal Conviction for Driving With Blood Alcohol Content of 0.08% or**
25 **More [BAC 0.27/0.28] on March 31, 2008)**

26 16. Respondent's application is subject to denial under sections 480, subdivision (a)(1)
27 and subdivision (a)(3)(A) of the Code in that she was convicted of a crime that is substantially
28 related to the qualifications, duties, and functions of a registered nurse, which would also be

1 grounds for discipline for a licensed registered nurse under Code section 2761, subdivision (f).

2 The circumstances are as follows:

3 17. On or about March 9, 2009, in a criminal proceeding entitled *The City of Las*
4 *Vegas vs. Teri Nicole Basil*, in the Las Vegas, Nevada Municipal Court, in Case No. C0714804A,
5 Respondent pled nolo contendere and was convicted by the court of driving with a blood alcohol
6 content of 0.08% or more, a misdemeanor.

7 18. As a result of the conviction, the Court ordered Respondent to serve 2 days in the
8 county jail, with 2 days credit for time served, and ordered her to pay various fines and fees, obey
9 all laws, and attend and complete a DUI Program and a Victim Impact Panel.

10 19. The facts that led to the conviction are that on March 31, 2008, at approximately
11 11:30 p.m., Las Vegas Metropolitan Police Department officers were dispatched, pursuant to a
12 9-1-1- call, to a check on a suspected drunk driver. Upon arrival in the area of Northbound
13 Pavilion Center and Charleston, officers made contact with Respondent who was found to have
14 been driving in the wrong direction (southbound in the northbound lanes). Officers observed that
15 Respondent had bloodshot eyes, that her speech was slurred, had an unsteady/falling gait, and that
16 a strong odor of alcohol emitted from her breath. Officers were unable to perform a field sobriety
17 test on Respondent because Respondent needed support to stand. Two breathalyzer tests taken at
18 1247 hours showed a blood alcohol content of 0.279% and 0.282%. Respondent was arrested for
19 driving under the influence of alcohol and booked at the Stewart/Mojave Jail.

20 **THIRD CAUSE FOR DENIAL OF APPLICATION**

21 **(Unprofessional Conduct - Dangerous Use of Alcohol)**

22 20. Respondent's application is subject to denial under sections 480, subdivision (a)(3)(A)
23 of the Code, in that on or about October 11, 1995 and March 31, 2008, Respondent used alcoholic
24 beverages to an extent or in a manner that was dangerous and injurious to herself and the public
25 when she operated a motor vehicle while under the influence of alcohol, as detailed in paragraphs
26 13-19, above, which is a violation of section 2762, subdivision (b) of the Code for a licensed
27 registered nurse.

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1 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

2 **(Unprofessional Conduct - Conviction of Alcohol-Related Offenses)**

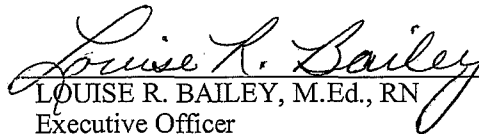
3 21. Respondent's application is subject to denial under sections 480, subdivision (a)(3)(A)
4 of the Code in that in or about 1995 and March 9, 2009, Respondent was convicted of criminal
5 offenses involving the consumption of alcohol as detailed in paragraphs 13-19, above, which are
6 violations of section 2762, subdivision (c) of the Code for a licensed registered nurse.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Registered Nursing issue a decision:

- 10 1. Denying the application of Teri Nicole Basil for a Registered Nurse License;
11 2. Taking such other and further action as deemed necessary and proper.

12 DATED: JANUARY 29, 2013

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14 LOUISE R. BAILEY, M.Ed., RN
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant

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